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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|----------------------|-------------|----------------------|---------------------|------------------|
| 10/595,446 | 04/20/2006 | Ralph Zochert | BINA.P004.US | 9797 |
| 42389 | 7590 | 12/18/2008 | EXAMINER | |
| DORT PATENT, P.C. | | | SOTELO, JESUS D | |
| Box 26219 | | | ART UNIT | PAPER NUMBER |
| Crystal City Station | | | | 3617 |
| Arlington, VA 22215 | | | | |
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| | | | 12/18/2008 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/595,446 | ZOCHERT, RALPH | |
| | Examiner | Art Unit | |
| | JESUS D. SOTELO | 3617 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 23 September 2008.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-11 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-3 is/are rejected.

7) Claim(s) 4-11 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) Notice of Informal Patent Application

6) Other: _____.

DETAILED ACTION

1. Claims 1-11 are in the application.

Claim Objections

2. Claims 4-11 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim can not depend from other multiple dependent claims. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

4. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Jaynes et al (5,504,342).

Looking to Jaynes et al, claim 1 is anticipated in that it only positively recites “a handrail” [figs. 1-5] for the intended use of a tarpaulin, “having a handlebar” [10,30,30]. Beyond that, the claim merely recites that the handlebar “**can be** held between two bushes”. Although the “bushes” are not positively recited, even if they were, the evidence of Jaynes et al meets the limitation by showing two bushes [18, 18’, 36]. And since the “bushes” are not positively recited, the recitation of them “each having a screw thread” is not a positive recitation but merely a statement of intended capability of combination with the bushes [18, 18’, 36]. Once again, although not required by the claim, the evidence of Jaynes et al also show “screw threads” [fig 3; 22; also shown in fig. 2 and 5]. It is notoriously well known to one with ordinary skill in the art that one function of screw threads is to secure. As such, a screw can go through multiple layers especially when one layer is merely a cloth. The claim recites that for the non-positively recited

screw thread they have the capability of being “inserted through the tarpaulin cloth in order to fasten them to the tarpaulin” and “with which the be affixed to the tarpaulin frame”. The claim does not require the structure of the tarpaulin (cloth), bushes, screw threads, nor the tarpaulin frame. It also does not recite “how” the screws are to be inserted through the cloth. Also, making note of claim 2, if the “bushes” were positively recited the evidence of Jaynes et al also happens to show “the bush [18, 36] has a fastening arm [fig. 3; 20] on which the screw thread [22] is arranged.

Response to Arguments

5. Applicant's arguments filed 9/23/2008 have been fully considered but they are not persuasive. Applicant argues that Jaynes does not show a handrail for a tarpaulin. As noted in the Office action, the language in the claims still addresses a functional capability of the structure recited. Clearly, the handrail of Jaynes can be attached to a tarpaulin with screws. The language in the claims has to be more specific to the structure disclosed.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JESUS D. SOTELO whose telephone number is 571-272-6686. The examiner can normally be reached on Mon. - Fri. 7:00 AM -3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JESUS D. SOTELO/
Primary Examiner, Art Unit 3617

18 December 2008